

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-02411-PAB-CBS

ROSEMARY NIKKEL,

Plaintiff,

v.

WAKEFIELD & ASSOCIATES, INC.,

Defendant.

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**MINUTE ORDER**

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**Entered by Judge Philip A. Brimmer**

This matter is before the Court on defendant's Motion to Dismiss [Docket No. 9]. On December 27, 2010, plaintiff filed an Amended Complaint [Docket No. 10] as a matter of course under Fed. R. Civ. P. 15(a)(1). Thus, the Amended Complaint became the operative pleading in this action, and the Motion to Dismiss [Docket No. 9] is directed to an inoperative, superseded pleading. *See, e.g., Gilles v. United States*, 906 F.2d 1386, 1389 (10th Cir. 1990) ("a pleading that has been amended under Rule 15(a) supersedes the pleading it modifies") (internal quotation marks omitted). As such, the motion to dismiss is moot. It is

ORDERED that defendant's Motion to Dismiss [Docket No. 9] is DENIED as moot.

DATED January 10, 2011.